

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

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T.R.A. DOCKET ROOM

IN RE:) Docket No. 03-00630
Petition for Arbitration of XO Tennessee,)
Inc. with BellSouth Telecommunications,)
Inc. Pursuant to the Telecommunications Act)
of 1996)
)

**PETITION OF XO TENNESSEE, INC., FOR ARBITRATION WITH
BELLSOUTH TELECOMMUNICATIONS, INC.**

A. INTRODUCTION

XO Tennessee, Inc. ("XO") by its undersigned attorneys, pursuant to Section 252(b) of the federal Telecommunications Act, 47 U.S.C. § 252(b), petitions the Tennessee Regulatory Authority ("TRA") to arbitrate unresolved issues in the interconnection negotiations between XO and BellSouth Telecommunications, Inc. ("BellSouth").

In support of this Petition, and in accordance with Section 252(b), Petitioner states as follows:

B. PARTIES

XO is a telecommunications provider as defined by the Act. XO is authorized to provide competitive local exchange services in the state of Tennessee.

BellSouth is an incumbent local exchange carrier ("ILEC") as defined by the Act at 47 U.S.C. § 251(h).

C. STATEMENT OF FACTS

On July 4, 2003, BellSouth requested commencement of negotiations under Section 252 of the Act. To date, however, the parties have been unable to agree on whether to use BellSouth's current standard interconnection agreement or the existing BellSouth/XO interconnection agreement in Tennessee as the starting point for negotiations.¹ Consequently, the parties have not yet addressed any substantive issues. Because of this impasse, the Petitioner requests the intervention of the Authority pursuant to Section 252 (b) of the Act. The Petitioner asks the Authority (1) to determine which document shall be used as a starting point for the development of a new interconnection agreement, (2) once that determination has been made, to assist the parties through mediation in identifying issues and negotiating a new agreement, and (3) to arbitrate any remaining unresolved issues.

The Petitioner understands that this is not a typical petition for arbitration but, given the inability of the parties to agree on an initial draft, the Petitioner is not in a position to be able to identify other issues and has no recourse but to seek the Authority's intervention.²

D. JURISDICTION

Under Section 252 of the Act, parties to a negotiation for interconnection services or unbundled elements within a particular state may petition the respective state commission for arbitration of any unresolved issues when negotiations fail. Pursuant to

¹ There have been other proposals, which the parties may explain to the mediator, but BellSouth's fundamental position, as XO understands it, is that BellSouth prefers to use its standard agreement, including a standard amendment to reflect BellSouth's interpretation of the FCC's Triennial Review Order.

² XO reserves the right to amend this petition to ask the mediator to address whether BellSouth has negotiated in good faith as required by the Act.

the Act, either party to the negotiation may seek arbitration during the period between the 135th day and the 160th day, inclusive, after the date upon which negotiations are requested.

This petition is timely filed. XO and BellSouth have agreed that, under Section 252(b) of the Act, the window for requesting arbitration closes on December 11, 2003.

E. DESIGNATED CONTACTS

Communications regarding this Petition should be directed to:

Henry Walker
Boult Cummings Conners Berry, PLC
Henry Walker
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219
(615) 252-2363

Dana Shaffer, Esq.
Vice President, Regulatory Counsel
XO Tennessee, Inc.
105 Molloy Street, Suite 300
Nashville, TN 37215
615-777-7700 (telephone)
615-850-0343 (facsimile)

F. ISSUES FOR ARBITRATION

Statement of the Issues:

1. Under what rates, terms, and conditions should BellSouth provide interconnection services to XO in Tennessee?
2. In arriving at those rates, terms, and conditions, should the parties use as a starting point BellSouth's current standard interconnection agreement or, in the alternative, the current Tennessee interconnection agreement between XO and BellSouth in Tennessee, which was the product of a prior TRA arbitration order?

G. POSITIONS OF THE PARTIES

BellSouth believes that its current standard interconnection agreement, including an amendment to reflect BellSouth's interpretation of the FCC's Triennial Review Order, should be used as the starting point in arriving at a new interconnection agreement.

XO believes that its current Tennessee agreement with BellSouth, edited to incorporate the provisions of the FCC's Triennial Review Order, should be used as the starting point for negotiating a new agreement.

Because the parties have been unable to resolve this initial issue, the parties have not yet taken positions on what should be the rates, terms, and conditions of a new agreement.

H. ATTACHMENTS

The Petitioner asks that the TRA take judicial notice of both the current BellSouth interconnection agreement and the current interconnection agreement between XO and BellSouth. The Petitioner hereby incorporates both documents by reference in this Petition.³

I. CONCLUSION

The Petitioner therefore asks that the Authority accept this request for arbitration and proceed, as described above, through mediation and arbitration, to a new interconnection agreement.

³ BellSouth's current standard agreement is reflected in a number of recent filings at the TRA. See, for example, Docket Nos. 03-00530 and 03-00565. The current interconnection agreement between XO and BellSouth was approved by the Authority on March 28, 2000 (Docket No. 98-00123) and has been periodically amended. See, Docket Nos. 00-01082, 01-00336, 01-00477, and 03-00099.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

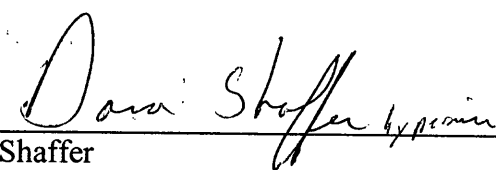
By: 
Henry Walker

414 Union Street, Suite 1600

P.O. Box 198062

Nashville, Tennessee 37219

(615) 252-2363


Dana Shaffer

XO Tennessee, Inc.

105 Molloy St., Suite 300

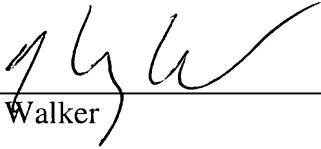
Nashville, Tennessee 37201

(615) 777-7700

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2003, a copy of the foregoing document was serviced on the parties of record, via US mail:

Guy Hicks, Esq.
BellSouth Telecommunications, Inc.
333 Commerce Street, Suite 2101
Nashville, TN 37201-3300



Henry Walker